

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BLACK LIVES MATTER SEATTLE-
KING COUNTY, ABIE EKENEZAR,
SHARON SAKAMOTO, MURACO
KYASHNA-TOCHA, ALEXANDER
WOLDEAB, NATHALIE GRAHAM,
AND ALEXANDRA CHEN,

Plaintiffs,

v.

CITY OF SEATTLE, SEATTLE POLICE
DEPARTMENT,

Defendant.

No. 2:20-cv-00887-RAJ

JOINT STATUS REPORT AND
DISCOVERY PLAN

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Western District of Washington and the Court's Order (Dkt. No. 38), Plaintiffs Black Lives Matter Seattle-King County, Abie Ekenezar, Sharon Sakamoto, Muraco Kyashna-tochá, Alexander Woldeab, Nathalie Graham, and Alexandra Chen, and Defendant City of Seattle (collectively the "Parties") submit the following Joint Status Report and Discovery Plan:

1. Statement of the Nature and Complexity of the Case.

Plaintiffs' claims arise out of Defendant's response to ongoing protests against police brutality and Defendant's crowd control policies, including Defendant's use of "less-lethal" weapons. Plaintiff alleges, *inter alia*, claims of violation of the First and Fourth Amendments to

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the United States Constitution. Defendant denies Plaintiffs' allegations and asserts affirmative defenses, including, but not limited to, lack of standing, that Defendant cannot be held liable on a *respondeat superior* basis, and Plaintiffs are not entitled to declaratory relief. Plaintiffs filed a motion for a Temporary Restraining Order, which the Court granted in part. The Parties stipulated to a Preliminary Injunction. Neither party deems this case particularly complex.

2. Proposed Deadline for Joining Additional Parties.

The Parties respectfully propose a deadline of September 30, 2020 for joining additional parties.

3. Assignment to Magistrate Judge.

No.

4. Proposed Discovery Plan:

A. Initial Disclosures. No deviation from Fed. R. Civ. P. 26(a). The Parties will exchange initial disclosures on July 15, 2020.

B. Subject, Timing, and Potential Phasing of Discovery. The Parties expect the topics for discovery to include all asserted claims and defenses. Discovery will be completed at least 120 days prior to the proposed trial date, in accordance with the Court's order. Dkt. 38.

C. Electronically Stored Information. The Parties do not currently seek additional management on discovery issues. The Parties do not anticipate electronic discovery to be onerous at this point in time.

D. Privilege Issues. The Parties agree that there are no unique or special privilege issues in this matter.

E. Proposed Limitations on Discovery. The Parties do not propose any limitations on discovery.

F. Discovery Related Orders. The Parties anticipate seeking entry of a protective order to protect sensitive matters, such as personal identity

information and tactical/training information, the public disclosure of which would compromise effective law enforcement, or as otherwise permitted under the Federal Rules of Civil Procedure. The Parties anticipate negotiating and presenting such an order to the Court by July 31, 2020.

5. Local Civil Rule 26(f)(1)

- A. Prompt Case Resolution. The Parties have communicated about the potential for early resolution.
- B. Alternative Dispute Resolution. The Parties intend to pursue mediation pursuant to Local Civil Rule 39.1 at least 60 days prior to the proposed trial date.
- C. Related Cases. There are currently no related cases pending in the United States.
- D. Discovery Management. Plaintiffs do not believe that this case will require unusual or extensive discovery, or assistance or orders from the Court regarding the scheduling or management of discovery. Defendant anticipates time-consuming discovery, as this case potentially involves thousands of hours of video requiring review, potential redaction, and production. The Parties anticipate cooperating with respect to discovery issues as outlined herein, and will cooperate to simplify pretrial matters related to the case to the extent possible. The Parties anticipate agreeing to email service of discovery documents, where possible.
- E. Anticipated Discovery Sought. Plaintiffs anticipate seeking discovery regarding: (1) the decisions pertaining to the use of force against protestors; (2) Defendant's policies related to the use of force against protestors; (3) the identities of Incident Commanders responsible for

1 coordinating police operations during ongoing demonstrations or marches;
2 (4) police incident logs and reports related to ongoing demonstrations or
3 marches; (5) communications to, from, and within the Seattle Police
4 Operations Center regarding crowd control efforts and ongoing
5 demonstrations or marches; (6) communications with other agencies
6 regarding intelligence of ongoing demonstrations or marches; (7) briefing
7 materials or other documents provided to police officers regarding crowd
8 control efforts; (8) communications with other agencies, departments, or
9 organizations regarding crowd control efforts within Defendant's
10 jurisdiction; (9) daily inventory of all "less lethal" crowd control tools and
11 policies, trainings, and related communications; (10); information
12 regarding order for each deployment and use of "less lethal" crowd control
13 tool and identity of officer involved; (11) identity of other agencies,
14 departments, or organizations who aided with crowd control; (12) officer
15 body worn video ("BWV") footage; (13) health records and incident
16 records pertaining to officers injured in response to ongoing protests,
17 marches, and demonstrations.

18 Defendant anticipates seeking discovery regarding (1) the factual bases for
19 Plaintiffs' claims; (2) Plaintiffs' claimed injuries; (3) the individual
20 Plaintiffs' activities during the events at issue; (4) Plaintiffs'
21 communications relating to the events at issue and their claimed injuries;
22 (5) Plaintiffs' planning for the events at issue; (6) Photographs and videos
23 in Plaintiffs' possession relating to the events at issue and Plaintiffs'
24 claimed injuries; and (7) documents, records, and other tangible items in
25 Plaintiffs' possession related to the events at issue and Plaintiffs' claimed
26 injuries.

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- 1 F. Phasing. Phasing is not currently required in this case, but may be
2 proposed at a later point in the case, depending on case development,
3 needs, and circumstances.
- 4 G. Preservation of Discoverable Information. The Parties do not currently
5 anticipate any issues regarding the preservation of evidence, which may
6 also involve obtaining materials from third parties.
- 7 H. Privilege Issues. The Parties agree that there are no unique or special
8 privilege issues in this matter. Parties agree to handle inadvertent
9 production of privileged information pursuant to Fed. R. Evid. 502(d) and
10 (e) or otherwise in accordance with procedures agreed to by the parties.
- 11 I. Model Protocol for Discovery of ESI. The Parties agree to adopt the
12 Model Agreement regarding Discovery of ESI to the extent that discovery
13 of such information arises in this case, with modifications agreed to by
14 both Parties. The Parties intend to negotiate modifications to the Model
15 Agreement prior to the September 30, 2020 expiration of the Stipulated
16 Order Entering a Preliminary Injunction.
- 17 J. Alternatives to Model Protocol. See above.

18 **6. Discovery Cut-off.**

19 The Parties propose 120 days before trial as a deadline for completion of discovery, in
20 accordance with the Court's Order. Dkt. 38. The Parties will be permitted to conduct expert
21 discovery up to 45 days after the disclosure of expert reports and/or rebuttal expert reports
22 mandated under Fed. R. Civ. P. 26(a).

23 **7. Bifurcation.**

24 Bifurcation is not anticipated at this time.

25 **8. Trial Date.**

The Parties' earliest availability for trial is July 2021. In light of evolving conditions related to the COVID-19 outbreak in the District, including General Order No. 08-20, the Parties recognize that the trial date may be delayed.

9. Jury.

Plaintiffs do not intend to file a jury demand.

10. Length of Trial.

The parties estimate approximately 10 court days.

11. Trial Counsel.

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15 **12. Trial Date Conflicts.**

16 Plaintiffs are available for trial in February 2021 and do not anticipate any unavailability
17 in the subsequent months.

18 Counsel for defendant is available for trial from July 19, 2021 through August 20, 2021;
19 September 13, 2021 through October 8, 2021; and October 18, 2021 through November 19,
20 2021.

21 **13. Corporate Disclosure Statement.**

22 The Parties filed their disclosure statements as required by Fed. R. Civ. P. 7.1 and Local
23 Civil Rule 7.1 on the following dates:

- 24 • Plaintiffs: June 9, 2020.
- 25 • Defendant: Not applicable.

26 **14. Service.**

Defendant was served with the Complaint on June 9, 2020.

1 DATED: July 14, 2020

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